

Magistrate Judge Weinberg

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAYMOND LEE FRYBERG, JR.

Defendant.

CASE NO.

MI15-129

COMPLAINT for VIOLATION

Title 18, U.S.C. Section 922(g)(8)

BEFORE, John L. Weinberg, United States Magistrate Judge, U. S. Courthouse,
Seattle, Washington.

The undersigned complainant being duly sworn states:

COUNT ONE

(Unlawful Possession of a Firearm by Prohibited Person)

Between on or about January 11, 2013 through on or about October 24, 2014, at
Tulalip, within the Western District of Washington, RAYMOND LEE FRYBERG, JR.
who was subject to a court order meeting the requirements of Title 18, United States
Code, Section 922(g)(8)(A)-(C), that is, an Order for Protection issued on September 10,
2002, by the Tulalip Tribal Court for the Tulalip Tribes of Washington, case number
TUL-TRO-8/02-415, did possess a firearm, to wit: a Beretta, model PX4 Storm, bearing

1 serial number PZ72254, that had been previously shipped and transported in interstate
2 and foreign commerce.

3 All in violation of Title 18, United States Code, Section 922(g)(8).

4 And the complainant states that this Complaint is based on the following
5 information:

6 1. I, Neil Rogers, am a Special Agent with the Federal Bureau of Investigation
7 (FBI). I have been a Special Agent of the FBI for over 18 years. During that time, I have
8 participated in numerous criminal investigations to include violent crimes and crimes on
9 Indian Reservations. I am currently assigned to the Everett Resident Agency of the
10 Seattle Field Office. The majority of my casework is related to crimes within Indian
11 Country, that is, within the tribal trust land and exterior boundaries of an Indian
12 reservation.

13 2. This affidavit is based upon my investigation, the investigation of officers
14 assigned to the Snohomish County Multi-Agency Response Team (SMART Team), and
15 officers of the Tulalip Tribal Police Department. This affidavit is written in support of a
16 criminal complaint against RAYMOND LEE FRYBERG JR. (FRYBERG). Because this
17 affidavit is made for the limited purpose of establishing probable cause, I have not listed
18 each and every fact known to me concerning the investigation.

19 **Protection Order**

20 3. During 2001 FRYBERG was involved in an intimate partner relationship
21 with J.G. FRYBERG and J.G. have a child in common, A.G., born on xxxxx, 2001.

22 4. On August 19, 2002, J.G. applied for a temporary order for protection in
23 the Tulalip Tribal Court located in Marysville, Washington. In her petition, J.G. alleged
24 that FRYBERG had recently threatened her and had in the past physically assaulted her
25 by hitting, slapping and/or pulling her hair.

26 5. On August 19, 2002, the Tulalip Tribal Court for the Tulalip Tribes of
27 Washington issued a temporary order for protection against FRYBERG under case
28

1 number TUL-TRO-8/02-415. A hearing was scheduled for August 27, 2002, to
2 determine whether to issue a permanent order for protection.

3 6. On August 27, 2002, the Tulalip Tribal Court issued a second temporary
4 order for protection against FRYBERG and scheduled a hearing for September 10, 2002,
5 to determine whether to issue a permanent order for protection.

6 7. On August 27, 2002, Tulalip Police Officer Jesus Echevarria personally
7 served FRYBERG with the temporary order for protection. The temporary order for
8 protection provided notice to FRYBERG of the hearing scheduled for September 10,
9 2002. The purpose of the hearing was to provide an opportunity for FRYBERG and J.G.
10 to present their respective positions as to whether a permanent order of protection should
11 issue.

12 8. On September 10, 2002, the Tulalip Tribal Court held a hearing to
13 determine whether to issue a permanent Order for Protection against FRYBERG.
14 Following that hearing, the Court issued a permanent order. The Court found that
15 FRYBERG "committed domestic violence as defined in RCW 26.50.010"¹ and therefore
16 restrained FRYBERG from "causing physical harm, bodily injury, assault, including
17 sexual assault, and from molesting, harassing, threatening, or stalking (the) petitioner
18 (and) the minors named in the table above."

19 9. The order was "permanent" with no expiration date. The order stated "[i]f
20 the duration of this order exceeds one year, the court finds that an order of less than one
21 year will be insufficient to prevent further acts of domestic violence."

22 10. On September 10, 2012, FRYBERG entered a plea of no contest to the
23 charge of violation of the permanent Order for Protection in Tulalip Tribal Court. This
24

25 ¹ RCW 26.50.010 defines "domestic violence" to mean (a) physical harm, bodily injury, assault, or the
26 infliction of fear of imminent physical harm, bodily injury, or assault, between family or household members; (b)
27 sexual assault of one family or household member by another; or (c) stalking as defined RCW 9A.46.110 of one
family or household member by another family or household member.

28 RCW 25.50.010(2) defines "family or household members" to include "persons who a child in common
regardless or whether they have been married or have lived together at any time."

1 violation of the Order had occurred on or about March 28, 2012. The Tulalip Tribal
2 Court sentenced FRYBERG to a fine of \$2,500 of which \$2,300 was suspended, a jail
3 term of 180 days which also suspended, and placed on probation for 12 months.
4 Additionally, FRYBERG was ordered to comply with the Order for Protection in case
5 number TUL-TRO-8/02-415. FRYBERG signed the Defendant's Acknowledgment on
6 the Judgment and Sentence, wherein he agreed to comply with all terms of the judgment
7 and sentence, including probation and compliance with the Order for Protection.

8 **Purchase of Firearms**

9 11. Cabela's is a Federal Firearms License (FFL) holder with a retail location
10 located at 9810 Quil Ceda Blvd., Tulalip, Washington, 98271. The physical location of
11 the business is located within the exterior boundaries of the Tulalip Indian Reservation
12 and sits on tribal trust land.

13 12. When an FFL sells a firearm, the purchaser is required to fill out a ATF
14 Form 4473. FFL's are required to maintain all 4473 forms. Additionally, an FFL must
15 report every handgun sold to the firearms section of the State of Washington Department
16 of Licensing (DOL). DOL maintains records of all handguns sold in the State based upon
17 the reports filed by the FFL. A separate Washington State pistol transfer form is
18 completed when a handgun is purchased in the State of Washington from a licensed
19 dealer. This form includes information about the purchaser, the firearm, and the identity
20 of the dealer who sold the firearm and sale date. A copy of the form is mailed to DOL
21 and to the local law enforcement agency where the firearm purchaser resides.

22 13. Between on or about January 11, 2013, through on or about July 31, 2014,
23 FRYBERG purchased five firearms from Cabela's on Quil Ceda Blvd.

24 14. For each purchase FRYBERG provided Washington State driver's license
25 number FRYBERxxxxxx as government identification to complete the purchase.
26 FRYBERG also completed ATF Form 4473. Section A, question 11.h of ATF Form
27 4473 requires purchasers to answer the following question: "Are you subject to a court
28 order restraining you from harassing, stalking, or threatening your child or an intimate

1 partner or child of such partner?" FRYBERG marked "no" to this question for the 4473
2 Form that he completed for each of the five firearms purchased at Cabela's.

3 15. FRYBERG signed the certification of ATF form 4473 which reads, in part:
4 I certify that my answers to Section A are true, correct, and complete. I have read
5 and understand the Notices, Instructions, and Definitions on ATF Form 4473... I
6 understand that a person who answers "yes" to any of the questions 11.b. through
7 11.k. is prohibited from purchasing or receiving a firearm... I also understand that
8 making any false oral or written statement, or exhibiting any false or
misrepresented identification with respect to this transaction, is a crime punishable
as a felony under Federal law, and may also violate State and/or local law.

9 16. The permanent Order for Protection issued against FRYBERG by the
10 Tulalip Tribal Court on for which he was convicted for violating on September 10, 2012,
11 was still in effect at the time he purchased the five firearms from Cabela's.

12 17. Specifically on January 11, 2013, FRYBERG purchased a Beretta PX4
13 Storm .40 S&W pistol, serial number PZ72254 at Cabela's on Quil Ceda Blvd. As part
14 of the purchase, FRYBERG filled out ATF form 4473 and answered "no" to the question
15 11.h in Section A, which asked whether he was subject to a court order restraining him
16 from harassing, stalking, or threatening his child or intimate partner. On January 23,
17 2013, the Beretta PX4 Storm pistol was transferred to FRYBERG by Cabela's employee
18 Jacob Bruns and FRYBERG took possession of the Beretta on the same day.

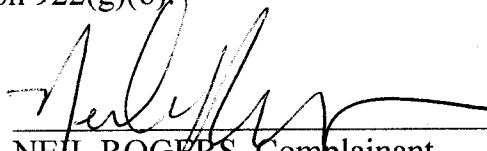
19 18. In October 2014, and specifically on October 24, 2014, the 15 year old
20 Jaylen Fryberg was living with his father, RAYMOND LEE FRYBERG Jr., and his
21 mother and brother on the Tulalip Indian Reservation. On October 24, 2014, law
22 enforcement investigators with Snohomish County responded to school shooting at
23 Marysville-Pilchuck High School in Marysville, Washington. The investigators
24 recovered the Beretta PX4 Storm firearm – the same pistol purchased by FRYBERG in
25 January 2013 – at the scene of the shooting. The investigation of the shooting revealed
26 that Jaylen Fryberg had used the Beretta PX4 Storm firearm in the shooting of five
27 teenagers, four of whom later died and one survived. Jaylen Fryberg also died from self-
28 inflicted gunshot wounds.

19. Cabela employee Jacob Bruns later told investigators that when he heard the news accounts of the school shooting, he recognized the Fryberg name and suspected that the firearm used in the shooting was the Beretta purchased by FRYBERG.

20. Following the shooting at Marysville High School, investigators went to FRYBERG's residence and received consent to search Jaylen Fryberg's room. In the room the investigators saw a large gun safe which was locked. Investigators did not know at that time that FRYBERG was a prohibited person with an order of protection against him and therefore, did not look inside the locked gun safe.


21. On March 26, 2015, Beretta U.S.A. Technical Representative Stern advised me that the Beretta PX4 Storm pistol bearing serial number PZ72254 was manufactured in the Beretta manufacturing facility located in Accokeek, Maryland.

Based on the above facts, I respectfully submit that there is probable cause to believe that RAYMOND LEE FRYBERG, JR. did unlawfully possess a firearm in violation of Title 18, United States Code, Section 922(g)(8).


NEIL ROGERS, Complainant
Special Agent, FBI

Based on the Complaint and Affidavit sworn to before me, and subscribed in my presence, the Court hereby finds that there is probable cause to believe the RAYMOND LEE FRYBERG, JR. committed the offense set forth in the Complaint.

Dated this 30 day of March, 2015.


JOHN L. WEINBERG
United States Magistrate Judge